

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

Company Application No.510 of 2011

in

Company Application No.89 of 2006

In

Company Petition No.13 of 2002

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Date:16th September, 2011

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Between:

Sri Nadikuda Shyam Rao S/o.Narahari

...Applicant

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and

M/s.Mamatha Chit Fund (P) Ltd. (in provisional liquidation),
Rep. by the Official Liquidator, High Court of A.P.,
Hyderabad.

....Respondent

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

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ORDER:

This is an application filed by the respondent in Company Application No.89 of 2006 under Section 450 of the Companies Act, 1956, (for short, 'the Act') r/w. Rules 9 and 106 of the Companies (Court) Rules, 1959, (for short, 'the Rules'), seeking a direction to the Official Liquidator to adjust the amount to the credit of wife of the applicant herein towards discharge of the decretal amount in Company Application No.89 of 2006.

2. Background facts in a nutshell leading to filing of this Company Application by Nadikuda Shyam Rao are :- He was a member of the chit

bearing No.LP15F-14 with effect from 11.04.1998 in the chit conducted by M/s.Mamatha Chit Fund (P) Ltd. (in provisional liquidation). The chit value was Rs.1.00 Lakh and the duration of the chit was 50 months and the monthly installment was Rs.2,000/-. He paid installments till April, 2001. His wife also joined as a member in the chit bearing Registered No.LP17F-17. The value of the chit was Rs.1.00 Lakh. The duration of the chit was 50 months and monthly installment was Rs.2,000/-. The chit was commenced from 27.03.1998. She paid installments upto April, 2001. The applicant herein became the prized subscriber of Ticket No.14 of Chit Group No.LP15F and received the prized amount of Rs.58,550/-. In the meanwhile the Company (in provisional liquidation) went in liquidation. This Court, by order, dated 20.03.2002, passed in Company Petition No.13 of 2002, appointed the Official Liquidator attached to this Court as provisional liquidator. The Official Liquidator after verifying the statement of affairs of the Company (in provisional liquidation), filed Company Application No.89 of 2006, against the applicant herein seeking a decree for a sum of Rs.52,000/- along with interest at the rate of 12% p.a. from 31.12.1999 till the date of realization. The said application came to be allowed on 27.04.2006, granting a decree for a sum of Rs.52,000/- along with interest at the rate of 12% p.a. from 31.12.1999 till the date of realization. After the decree granted in Company Application No.89 of 2006, the applicant herein moved this instant application seeking a direction to the Official Liquidator to adjust the amount standing to the credit of his wife Smt.N.Lalitha.

3. The Official Liquidator placed on record his report on 14.09.2011. As per the report, the applicant herein deposited an amount of Rs.24,231/-. The amount standing to the credit of the applicant's wife is Rs.27,769/- being the actual chit subscription paid by her. Paras.4 and 5 of the report of the Official Liquidator, dated 14.09.2011, read as hereunder:

"4.That, in case this Hon'ble Court is pleased to allow for set-off, Smt.N.Lalitha is entitled for a sum of Rs.27,769/-, being the actual chit subscriptions lying to the credit of T.No.17 of Group No.LP17F and Smt.N.Lalitha, has to undertake that she will not prefer

any claim against the Company (in Liqn.), in respect of T.No.17 of Group LP17F, to the extent of such set-off allowed by this Hon'ble Court.

5. That, the Petitioner/respondent has deposited an amount of Rs.24,231/- and the details are as follows:

Sl.No.	Rpt. No.	Date	Amount paid (Rs.)
1.	7027	08.11.2010	4,000-00
2.	7912	08.09.2011	6,000-00
3.	7913	08.09.2011	5,000-00
4.	7921	12.09.2011	9,231-00
		Total:	Rs.24,231-00

It is further submitted that, the respondent has not paid the cost of E.P. and fee payable to the Advocate who has been engaged by Official Liquidator for filing EP.”

4. The applicant placed on record the affidavit of his wife giving consent for adjustment of the amount to her credit in Chit No.LP17-F towards the amount due from the applicant herein. The amount standing to the credit of Smt.N.Lalitha is Rs.27,769/-. The applicant paid an amount of rs.24,231/-. As on this day, if the amount standing to the credit of the wife of the applicant herein is adjusted towards the amount due from the applicant herein, the total amount paid by the applicant comes to Rs.27,769/- + Rs.24,231= Rs.52,000/-. The principal amount for which the decree has been granted is Rs.52,000/-.

5. In the given facts and circumstances, the Official Liquidator is directed to adjust the amount standing to the credit of Smt.N.Lalitha towards the amount due from the applicant herein and treat the decretal debt in Company Application No.89 of 2006 is fully satisfied subject to the applicant herein paying a further sum of Rs.3,000/- within 30 days from today, failing which, the waiver of subsequent interest granted to him in this Company Application shall strand recalled and the original decree granted in Company Application No.89 of 2006 shall stand restored.

6. Accordingly, the Company Application is disposed of. No costs.

B.SESHASAYANA REDDY, J.

Date:16th September, 2011.

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THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

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